
RSGDA

REPAIR SHOP & GASOLINE DEALERS ASSOCIATION
(585) 423-9924 -- (716) 656-1035 – rsgda@nysassrs.com – www.nysassrs.com

December 2010

Notice From DMV To Auto Dealers

TO: All New York State Retail Motor Vehicle Dealers
SUBJECT: Automobile Trade-in Protection (Chapter 254 of the Laws of 2010)

Effective October 28, 2010, a new section 198-c will be added to the General Business Law, setting forth the following requirements:

- If a dealer acquires a trade-in motor vehicle as part of a retail sale or lease transaction, the dealer must pay any outstanding balances owed by the consumer on the previous loan or lease within twenty-one calendar days, unless the dealer and consumer have agreed, in writing, to a specified amount or a shorter time period.
- A dealer may not sell a motor vehicle acquired in trade unless any outstanding balance owed by the previous owner or lessee on any loan or lease is paid in full.
- Any person who is convicted of knowingly violating section 198-c(b) {4} of the General Business Law shall be guilty of a class A misdemeanor.
- A violation of this section is also considered a deceptive act and practice, subject to enforcement by the Office of the Attorney General. In addition, the district attorney, county attorney and corporation counsel are given jurisdiction to seek relief for a violation of this section.

In addition, section 415(9),(e) of the Vehicle and Traffic Law is amended to authorize DMV to take administrative action against a dealer who commits willful violations of section 198-c of the General Business Law.

Baucus to Introduce Legislation to Repeal 1099 Reporting Requirements

Senate Finance Committee Chairman Max Baucus, D-Mont., announced on Nov. 12 that he plans to introduce legislation that will repeal the Form 1099 reporting requirements that recently became law under the Patient Protection and Affordable Care Act. Originally drafted by Baucus, the 1099 health care reform provision requires all businesses to file an information return for any payment they make to a single payee totaling more than \$600 annually beginning in 2012.

Many small businesses voiced their dissatisfaction with the provision in the months leading up to the 2010 midterm elections, citing an unduly burdensome paperwork that would be required in order to comply. Prior to the election, Sen. Bill Nelson, D-Fla., introduced an amendment to the small business bill that would raise the reporting requirement threshold to \$5,000 per year and Sen. Mike Johanns, R-Neb., introduced an amendment that would have provided full repeal. Baucus supported the Nelson amendment at the time, but has since "heard small business loud and clear" and will introduce his own bill as a response to their concerns, though no timeline was given. President Obama said earlier this month that he would also support repeal of the burdensome requirements.

California Agency Proposes to Limit Initial Scope of Green Chemistry Initiative

The California Department of Toxic Substance Control (DTSC) on Nov. 16 released revised proposed rules to implement the state's green chemistry initiative. The initiative, which was established under A.B. 1879, requires DTSC to develop a science-based process for identifying chemicals that pose the greatest risk to the public and the environment, develop a list of products that contain the chemicals and find safer alternatives.

Under the regulation that was released in September, manufacturers would submit data to DTSC on chemicals that they already provide to the Environmental Protection Agency and to European regulators. Using that data, DTSC would identify products containing the chemicals and rank them based on sales volumes, public exposure and disposal methods. Manufacturers and importers of "priority" products would have to perform "alternative assessments" to determine whether safer substitutes for the chemical are available and then demonstrate that the alternatives would have no adverse impacts on public health or the environment. Following the assessment, DTSC would have the authority to ban products if they still contain a chemical of concern and if the agency can demonstrate that there is a

INSIDE THIS ISSUE

- 1 *Automobile Trade-In Protection*
- 1 *Legislation To Repeal 1099 Reporting*
- 1-2 *California Agency Proposes to Limit Initial Scope of Green Chemistry Initiative*
- 2 *Final Draft of Anti-Counterfeiting Agreement*
- 2 *OSHA Holds Chemical Labeling Meeting*
- 2 *OTC Calls For More Stringent NOx Standards*
- 2-3 *Public Hearing On E15*
- 3 *EPA Proposes Guidance For USTs*
- 3-4 *Ethanol Tax Credit Extension Urged*
- 4 *Diesel Cars More Efficient*
- 4 *Earn Benefits With Energy Plus®*

functionally equivalent alternative that is safer, available and affordable.

The DTSC revised proposal issued last week would, for the first five years, narrow the scope of products that would be required to submit data to only children's products, personal care products and household cleaning products. The earlier proposal contained a much broader universe of all consumer products, including many automotive products. The revisions released on Nov. 16 further sought to clarify provisions in the proposal that provided protection of confidential business information. Industry groups had opposed the original proposal as permitting too much information to be made public and would reduce innovation.

Under statute, the regulations to implement the green chemistry initiative must be in place by Jan. 1, 2011. The revised proposal can be viewed by clicking [here](#).

Final Draft of Anti-Counterfeiting Trade Agreement Completed

Participants in the Anti-Counterfeiting Trade Agreement (ACTA) negotiations announced that remaining issues from last month's final round of had been resolved and that the final text of an agreement had been completed. The draft still must undergo "legal verification" and will then be submitted proper authorities of the participating nations for domestic processes.

The goal of ACTA is to provide an international framework for combating intellectual property (IP) rights infringement, particularly the growing international problem of counterfeiting and piracy. Participants in the negotiations included Australia, Canada, the European Union and member states, Japan, Korea, Mexico, Morocco, New Zealand, Singapore, Switzerland and the United States.

The final draft of ACTA text is available at http://www.ustr.gov/webfm_send/2379.

OSHA to Hold Chemical Labeling Harmonization Meeting

The Occupational Safety and Health Administration (OSHA) announced that they will hold an informal public meeting to discuss a proposal that the agency is developing in advance of an upcoming meeting of the United Nations Subcommittee on Experts on the Globally Harmonized System of Classification and Labeling of Chemicals (GHS). The OSHA proposal, which is in the final stages of development, would align its hazard communication standard with that of GHS.

The meeting will consist of members of the U.S. GHS Interagency Coordinating Groups, comprised of OSHA, Environmental Protection Agency, Department of Transportation and the Consumer Product Safety Commission. The U.N. will hold a meeting in Geneva, Dec. 7-9, to consider classification schemes for metal corrosives, water-activated toxicity, among other substances, and address global implementation concerns.

OTC Calls for More Stringent NOx Vehicle Emissions Standards

The Ozone Transport Commission (OTC) is calling on the Environmental Protection Agency (EPA) to update its fuel and light-duty vehicle emissions standards to control emissions of nitrogen oxides (NOx) in order to reflect advances in automotive technologies. OTC maintains that there have been significant advances in vehicle emission control performance that have occurred since 1999 when the Tier 2 emissions standards were issued. Under that rule, the average NOx emissions standard was set at .07 grams per mile for all classes of passenger vehicles including light-duty trucks and sport utility vehicles - to be phased-in beginning in 2004.

Comprised of 12 states and the District of Columbia, OTC was established under the Clean Air Act in order to adopt regional solutions to ozone issues in the northeast U.S. The commission at its Nov. 10 meeting further called on EPA to issue NOx emissions reductions that go beyond offsetting the emissions increases resulting from the recent approval of a waiver, which would permit gasoline to contain 15 percent ethanol. Increasing the amount of ethanol in gasoline reduces carbon monoxide and hydrocarbon emissions, but also leads to increases in NOx emissions.

Coalition Calls on Incentives for Fleet Use of Electric Vehicles

A report entitled "Fleet Electrification Roadmap," released by the Electrification Coalition, points to the expanded use of electric-drive vehicles in fleets as a key step to support development of the electric drive vehicle industry and to help drive down industry costs. "The early development of the electric drive vehicle and battery industries would benefit from a diverse customer base that can help drive critical volumes, particularly in the period between 2010 and 2015 when charging infrastructure and consumer acceptance issues will constrain development of the passenger market," the report states.

The report recommends a "suite of policies to facilitate adoption of grid-enabled vehicles by fleet operators." The policies, which are intended to narrowly address the specific obstacles to electric drive vehicles adoption, include:

- Expanded tax credits for light-duty grid-enabled vehicles purchased in deployment communities to include private sector fleets;
- Tax credits for medium- and heavy-duty grid-enabled vehicles deployed with greater than 10 vehicles in operation; and
- Creation of clean renewable energy bonds for fleet vehicle charging infrastructure and making municipal and regional transit authorities eligible for the bonds.

The Electrification Coalition is composed of companies involved in the development and use of electric vehicles and is dedicated to reducing American's dependence on foreign oil by increasing use of electric vehicles.

E15 Label Must Leverage Industry's Best Practices

At a public hearing this week hosted by the Environmental Protection Agency (EPA) to receive testimony concerning proposed label requirements for E15 (gasoline containing 15 percent ethanol), John Eichberger

urged the panel to consider carefully expert advice for NACS members regarding label design and to convene a stakeholders conference as soon as possible to begin resolving outstanding issues revolving around the new fuel.

The EPA has been told that, in response to its request for comments on proposed labels for E15, that NACS was reaching out to its retail members and supplier members who design signage for retail fuel islands to solicit their advice for effective label design. He explained that these individuals have extensive experience and expertise to design fuel island placard and advertisements that attract consumer attention and that their advice should be given careful consideration by the Agency when reviewing stakeholder comments.

In response to allegations by some ethanol advocates on earlier panels, Eichberger explained that NACS objective is to help the Agency create an effective label and enables E15 retailers to profitably sell the fuel to customers with authorized vehicles but to also dissuade customers with non-authorized engines from misfueling. He reminded EPA that the legal consequences associated with misfueling can be severe.

There are concerns that EPA did not include within the proposed rule itself a clear policy informing retailers of the compliance enforcement that will follow the labeling rule. The preamble to the rule stipulates that "EPA would typically not hold a self-service fuel retailer liable for customer misfueling if the retailer has labeled their dispensers appropriately and did not condone or facilitate such misfueling." The Agency has been urged to provide retailers with additional regulatory certainty in the final rule.

The Agency has been asked to convene a conference of interested stakeholders as soon as possible, preferably prior to finalization of the proposed rule, to identify and begin eliminating the additional barriers to lawful and safe introduction of E15 in the market. He noted that several stakeholders, such as API, the Renewable Fuels Association and the American Coalition of Ethanol, have lists of legal issues that must be resolved before E15 can be sold. It is critical that these issues be resolved in a cooperative manner.

The Association will be developing official written comments and recommendations to submit to EPA in response to its proposed rule.

EPA Proposes Guidance for UST Fuel Compatibility

The Environmental Protection Agency (EPA) Office of Underground Storage Tanks (OUST) proposed in the Federal Register new procedures for determining the compatibility of underground storage tank equipment with fuels containing more than 10 percent ethanol and certain volumes of biodiesel. The proposal seeks to provide an avenue for retailers using tank equipment that is not certified by Underwriters Laboratories (UL) as compatible with E10 or higher fuels or certain biofuels (the bio concentration to be determined during the public comment period) to determine if their equipment is safe to accommodate these new fuels, thereby avoiding the costly need to replace entire systems.

The proposal sets up three methods for determining

compatibility:

- Certified by a national recognized testing laboratory, like UL;
- Equipment approved by the manufacturer to handle these fuels; and
- Another method to be determined by the implementing agency (typically the state tank office) to sufficiently protect human health and the environment.

The second option is further clarified by the EPA in the proposal. A retailer can demonstrate that the manufacturer approves the equipment for use with these fuels by providing written affirmative statements of compatibility, including product warranties, brochures or letters from the manufacture.

The third option will be left to the states to determine appropriate standards, contingent upon EPA approval. EPA indicates it will work with these offices to develop such standards.

EPA acknowledges that these guidelines will be helpful to those tank owners who know specifically what equipment is in their system. However, there are many tank owners who may be the third or fourth owner since the systems were installed and there may not be sufficient records to determine specific equipment identify. In such cases, the retailer may be unable to demonstrate compatibility. EPA is requesting comments on a variety of topics, including the extent to which tank owners may not know the specific components of their systems.

EPA also is requesting comments concerning the content thresholds of biodiesel that should be subject to these guidelines. For example, B5 is considered under ASTM specifications as the equivalent of diesel fuel and does not require labeling. However, at what bio concentration does material compatibility become an issue? This is an open question that will be resolved prior to finalization of the guidelines.

We welcome the proposed guidelines. However the Association is concerned that such guidelines, while extremely helpful, will not satisfy many existing laws and regulations. This is why we continue to press for enactment of H.R. 5778, the Renewable Fuels Marketing Act. Without the enactment of legislation granting EPA guidelines, such as those proposed by OUST, the legal authority to satisfy compliance with other laws and regulations, retailers could still find themselves being required to replace expensive equipment to accommodate new fuels. Further, OUST guidelines do not extend to the dispenser — the office's jurisdiction applies only to underground equipment.

U.S. Senator Urges Ethanol Tax Credit Extension

U.S. Sen. Ben Nelson (D-NE) is making the case for extending the Volumetric Ethanol Excise Tax Credit (VEETC) and hoping to get the issue on the radar screen before it expires, reports the Grand Island Independent. Nelson, who sits on the Senate Agriculture Committee, told the newspaper that failure to extend the ethanol tax credit would be detrimental to Nebraska's ethanol industry and the state's economic recovery.

A coalition of ethanol and farm groups, including the American Coalition for Ethanol, American Farm Bureau Federation, Growth Energy, National Association of Wheat Growers, National Corn Growers Association, National Farmers Union, National Sorghum Producers and the Renewable Fuels Association, are also urging Congress to take up the issue. "As a consequence of reduced demand, ethanol plants will close," says the coalition in a letter to members of Congress. "One analysis concluded that as many as 118,000 jobs could be lost if Congress fails to extend this important incentive."

Nelson added that the issue is about jobs and making the state an independent energy producer. "Cutting a tax advantage on ethanol at this point in time not only affects adversely the job market in Nebraska and ethanol, but will create more reliance on foreign sources of oil," he told the newspaper. Meanwhile, another coalition is urging Congress not to extend the ethanol tax credit, saying that it unfairly distorts corn prices. Those groups include the American Meat Institute, National Turkey Federation, National Chicken Council, National Cattlemen's Beef Association, National Pork Producers Council and the National Meat Association.

Earlier this year Senate Budget Chairman Kent Conrad (D-MT) and Senate Finance ranking member Chuck Grassley (R-IA) introduced a bill that would extend ethanol tax credits and a tariff on ethanol imports, Congress Daily reported. The bill sought to extend through 2015 the 45 cents per gallon ethanol tax credit, the 10 cents per gallon small ethanol producers' tax credit, and the \$1.01 per gallon cellulosic biofuel producer tax credit. The ethanol tax credit and ethanol producers' tax credit are set to expire at the end of 2010, while the cellulosic biofuel producer tax credit is set to expire at the end of 2012.

What About Diesel?

Electric vehicles, E10, E85...are motorists forgetting about diesel? Perhaps not: "With the additional pressures of climate change and the hunt for ways to reduce carbon dioxide emissions...some enthusiasts are looking to diesel-powered cars as a greener alternative to gasoline cars, as well as an efficient, high-performance alternative to hybrids," writes the New York Times this week. The newspaper notes that diesel fuel isn't what it used to be. That "tougher pollution-reduction requirements, advances in diesel engineering and heightened interest in overall fuel economy" is helping to "burnish the otherwise dirty, smelly and highly polluting reputation of diesel cars."

According to the EPA, diesel-powered vehicles are about 20 percent to 40 percent more fuel-efficient than regular gasoline models. In Europe, diesel-powered vehicles account for 50 percent of the market, writes the newspaper. Unlike Europe, the issue in the U.S. has been availability. Citing stats from the National Highway Safety Traffic Administration, the Times notes that since 1981, "diesel cars virtually disappeared from American roads for the next two decades," making way for off-road equipment and the shipping and transport industries to pick up the majority of diesel consumption.

Diesel cars also cost a few extra thousand dollars to manufacture than their regular gas-powered counterparts, which in turn makes diesel vehicles more expensive to purchase. On the flip side, diesel fuel is less expensive to refine than regular gasoline, but carries a higher price at the pump.

Things are changing for diesel fuel. The phase in of new ultra low sulfur diesel regulations concludes on December 1 (after which all on-road diesel fuel will be ultra low sulfur) and diesel engine technology has significantly improved. (Editor's note: Regarding ULSD, NACS Daily reported in September that the EPA would assess civil penalties of up to \$32,500 daily to stations that are not complying with ULSD fuel standards.)

The federal government offers tax incentives for certain diesel models, and Kelley Blue Book lists two diesel models — the BMW 335d and the Volkswagen Golf TDI — among its Top 10 Green Cars for 2010, writes the Times. "The technology has totally changed," Karl Brauer, a senior analyst with Edmunds.com, told the Times. "Gone are the issues with cold starting. There's no cloud of smoke when you start it up in the morning, and no rattling sounds when it's idling."

Canadian Government Applauded for Focusing on Contraband Tobacco

The National Coalition Against Contraband Tobacco (NCACT) is pleased by the Canadian government's recent decision to focus its tobacco control efforts on the serious contraband tobacco problem that continues to plague Canada. NCACT is anxious to hear what additional steps the government intends to take to eliminate the scourge of contraband tobacco in Canada.

A recent study published by the Centre for Addiction and Mental Health reveals that 50 percent of Ontario youth smokers — who are illegally smoking — are smoking contraband on a daily basis. Contraband tobacco avoids all taxes, bears no health warnings and provides minors easy access to cheap, unregulated cigarettes. It is NCACT's hope that Health Canada can provide a coordinating voice and lead a comprehensive contraband crackdown by the federal government.

NYSASSRS Partnership With Energy Plus

As the frosty weather blows in, it is time to think about how you can cozy up to your electricity bill this winter. NYSASSRS has partnered with Energy Plus to offer members an exclusive, customized electricity program that includes these unique benefits:

- Earn 3% Cash Back on the electricity supply portion for your business (or 2% for your home)
- Receive a \$50 Activation Bonus for each business account you sign up (or \$25 for your home)
- Receive monthly savings - up to 9.75% on the delivery portion of your bill
- No service changes - Your local utility company will continue to read your meter, send your bill and handle any emergencies

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35%	08-09
35%	07-08
30%	06-07
30%	05-06
25%	04-05

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Repair Shop and Gasoline Dealers Association

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If you are going without health insurance, you are taking a big risk. Now is the best time to stop exposing yourself to high medical costs. Even if you have insurance, you will want to check how our health insurance programs can better suit your needs. Here are some of the benefits of our program:

- **Reduced premiums by being a member of our groups.**
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- **Choose from a wide selection of plans.**
- **Tailor your insurance to best suit your needs.**
- **Participating employees may choose different plans.**

Let us work with you to find the best program at the best price. We will send you more information, and help you to navigate the selection of plans and options to find the one that is best for you.

**To find out more information call
Ralph Bombardiere at (585) 423-9924**

RSGDA

LEGAL PLAN

As a member in good standing of the Association, you are entitled to participate in our group legal service plan. If you are in need of this service, you must first call the Association office at (585) 423-9924. An appointment will be arranged that will be convenient for you and the attorney.

Covered services available to members include:

- Defense in Small Claims Court if your business is sued or at Department of Motor Vehicles or at any other New York State Administrative Proceeding hearing. (Once per year.)
- Review of leases, supply contracts and franchise agreements to advise you of your obligation under these contracts. The plan does not include actual negotiation on your behalf. (One hour per issue, up to five hours per year.)
- Consultation on legal questions pertaining to your business. (One hour per issue, up to five hours per year.)

Appeals of judgments against you are not a covered benefit, but are available to members at special contract prices.

Additional legal services will be provided by the designated law firm's standard hourly rate less 15%. Special contract prices have also been negotiated for the following services.

- Residential real estate purchase or sale. The designated law firm will represent you in the sale of purchase of your primary residence and/or a second home or vacation property at the following rates:

Sale	\$295.00
Purchase	\$350.00
- Simple will \$75.00 Simple will (husband and wife) \$125.00

In order to participate in the plan you must be a member in good standing and must have been a member for ninety days prior to the need for legal service.

RSGDAofWNY

Repair Shop and Gasoline Dealers Association of Western New York

Member Legal Services Plan

Administered by
KENNEY SHELTON LIPTAK & NOWAK, LLP

Dues paying members in good standing with the Association are entitled to participate in our group legal services plan that provides the following services:

- Five billable hours of legal services for representation and defense at Department of Motor Vehicles or any other New York state Administrative Proceeding or Hearing for repair-shop related issues, and in Small Claims Court, if your business is sued. The Plan does not include representation in any court other than Small Claims or in any matter where the member is charged with a misdemeanor or felony.
- Additional legal services for covered services as listed above, and representation in business-related matters brought in any court other than Small Claims, will be provided at the law firms standard hourly rate (\$200) less 25% member discounted rate (\$150).
- One hour of free consultation per year for business-related transactions, including leases, supply contracts, and franchise agreements.
- Real estate (residential) purchase or sale at a flat fee rate:
Sale \$400
Purchase \$400
- Estate planning at a flat fee rate:
Simple will (single) \$100
Simple will (husband and wife) \$150

In order to participate in the plan, you must be a dues paying member, in good standing, and must have been a member for at least ninety days prior to the need for legal services.

If you are in need of this service, you must first call the association office at (585) 423-9924 or (716) 656-1035. The association will then contact the law firm to relay your information. You will be contacted by the law firm, personally, to schedule an interview.

The law firm of Kenney Shelton Liptak and Nowak, LLP was chosen to administer the RSGDAofWNY legal plan based on their knowledge and familiarity with the needs of our industry.

**To become a dues paying member of RSGDAofWNY
and be eligible for legal services, call (716) 656-1035**

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COMPLIANCE WITH THE NEW STATE CERTIFICATION OF
CLERKS WHO SELL TOBACCO PRODUCTS

CERTIFICATION OF A CLERK WHO SELLS TOBACCO PRODUCTS
POINT REDUCTION CLASS

NEW YORK STATE AMENDED ITS POLICY OF ENFORCEMENT FOR RETAILERS WHO SELL TOBACCO. UNDER THE NEW LAW A POINT SYSTEM HAS BEEN ESTABLISHED. EACH VIOLATION OF A TOBACCO SALE TO A MINOR WILL GENERATE A FINE AND TWO POINTS. THREE POINTS AND THE RETAILER'S LICENSE TO SELL CIGARETTES WILL BE SUSPENDED. HOWEVER, IF THE CLERK HAS RECEIVED A CERTIFICATION BY TAKING AN APPROVED SEMINAR, THE VIOLATION WILL RECEIVE ONE POINT.

THE STATE IS ENFORCING THIS LAW
*IN ORDER TO ACCOMMODATE OUR MEMBERS,
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PLEASE NOTE DATES, TIME, AND LOCATION OF THE NEXT SEMINAR

WHERE:

Shadow Lake Golf Course – Woodlands Room
1850 Five Mile Line Road
Penfield, NY

WHEN:

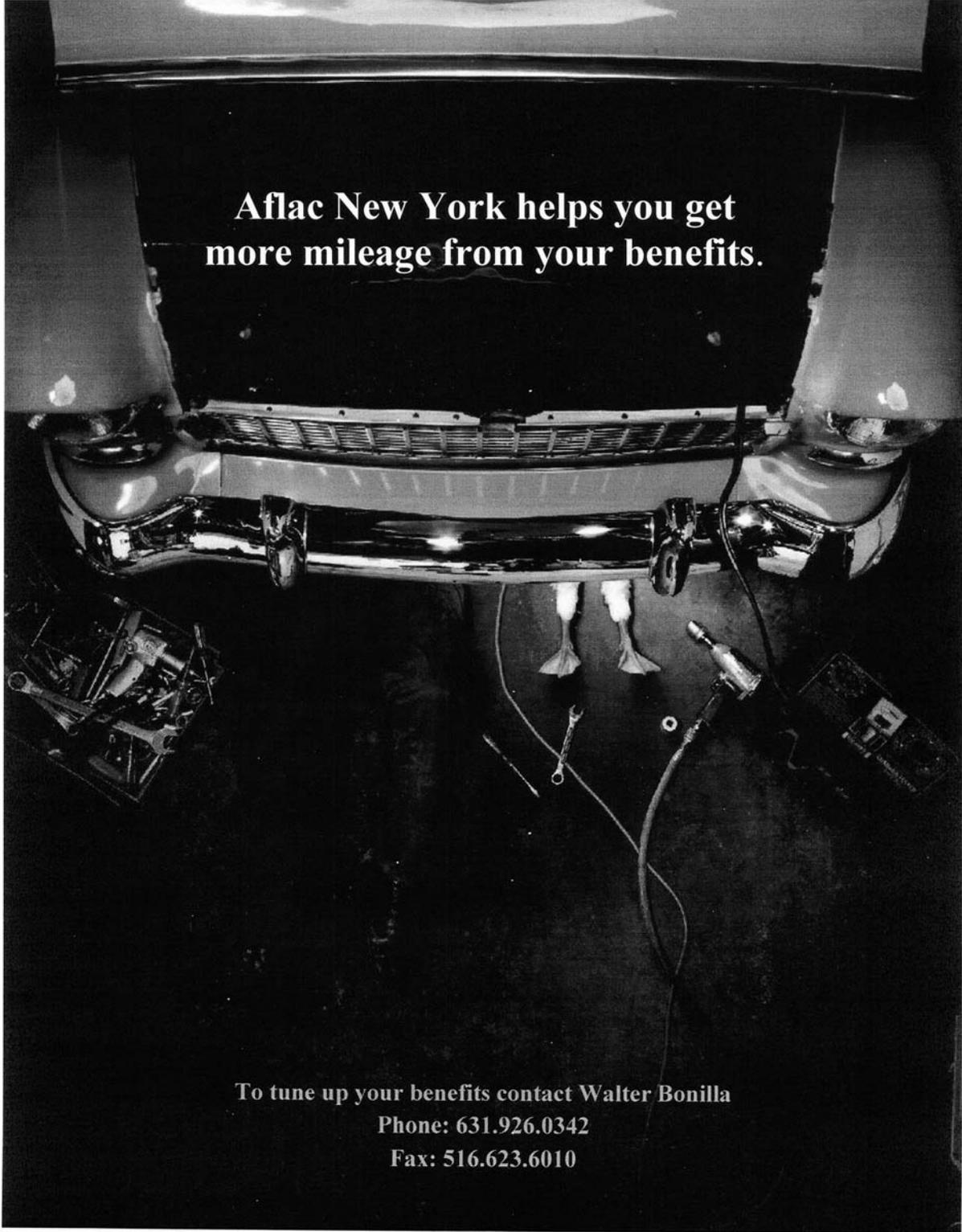
First Thursday of every month at 4:00 PM

COST:

MEMBERS: \$15.00 - NON-MEMBERS \$30.00

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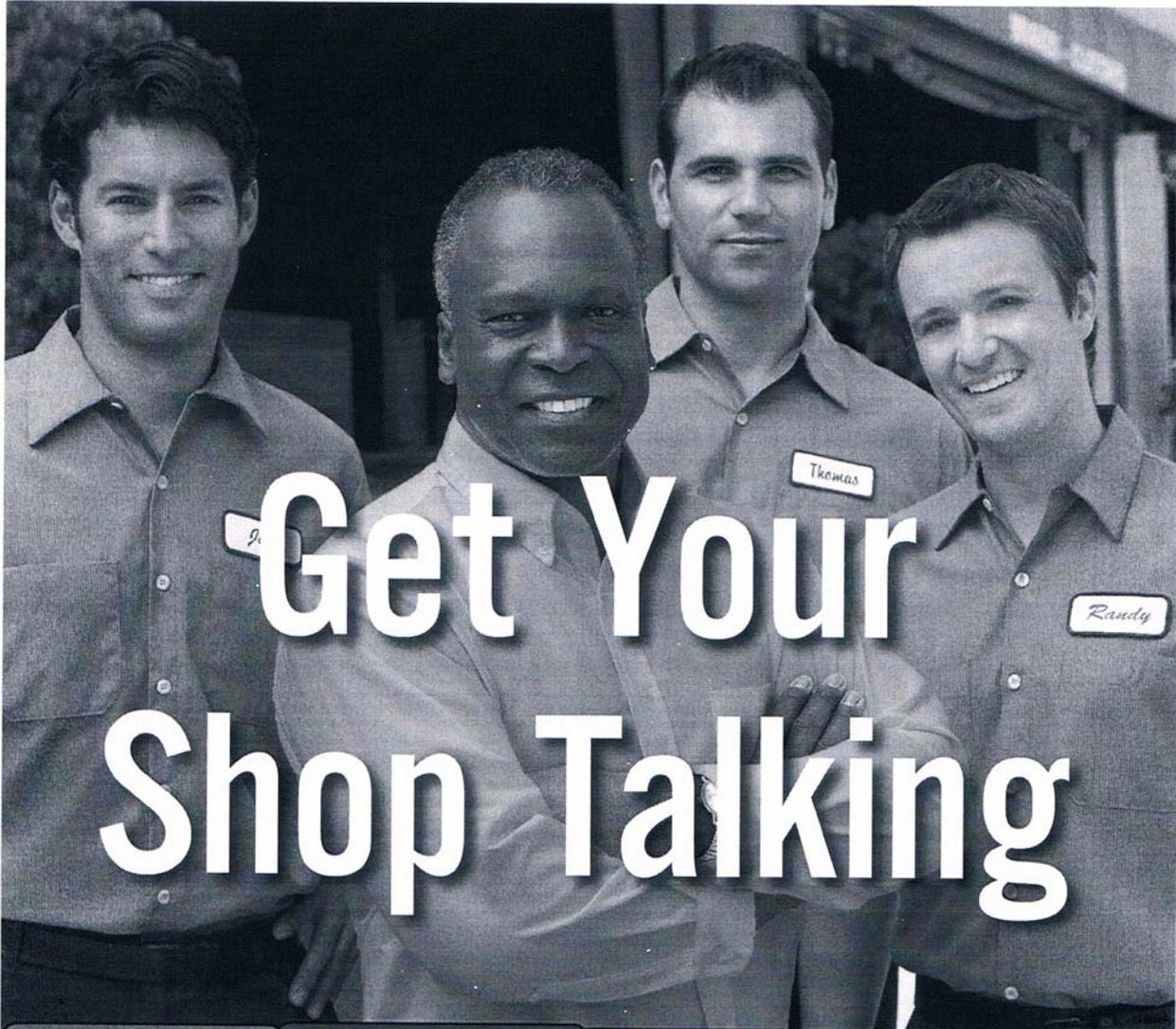
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MTA Is Seeking Vendors To Sell E-ZPass On The Go

MTA Bridges and Tunnels is seeking qualified retailers to take part in a pilot program to sell pre-packaged E-ZPass tags through a program called E-ZPass On-The-Go. Through this program, customers can purchase a pre-paid E-ZPass tag worth \$30, which will be active upon purchase. The program is designed to reach an untapped portion of the E-ZPass market by getting them to experience the convenience of using E-ZPass.

The tags will be sold to retailers at a discounted rate of \$25 and resold over the counter for \$30, giving your business a profit of \$5 per tag. The tags will arrive in a securely sealed, clamshell package. The live tags should be kept behind the counter in a secure area. We will provide window decals and a dummy tag model for use in a countertop display.

If you are interested in being considered for our pilot program please contact us at ezpassotg@mtabt.org. Please provide your contact information, including name, telephone and fax number.



FOR SALE

New Lebanon Sunoco Mart & Laundromat & Apartments w/property

- Property around 2 acres in downtown New Lebanon
- C-store is around 3500 sq ft
- Laundromat is around 1500 sq ft
- 6 apartments averaging 700/mo rent. Total around 4000/mo.
- Recently switched to Sunoco/Price Chopper -currently pumping 35-40k gals/mo
- Laundromat sales around 3000/mo
- C-Store & Subshop sales w/o gas and lotto around 65000/mo
- Property Taxes around 15000/yr

The property has great potential for a drive through franchise like Dunkin Donuts or Subway both of which have approached us in the last month because a big retailer (Price Chopper has already broken ground) is opening right next to us in the next yr which will significantly increase the traffic count in the area and also boost the commercial property values. There is also great demand for apartments in this area. Our apartments are almost never vacant. One could do really well by adding a few more apts on the property and leverage that demand.

ASKING 1.5 MILLION
Contact John At The GRANY Office
518-452-4367

